REMARKS

Claims 1-17 were pending in the present application. By virtue of this response, claims 1-2 have been amended. Accordingly, claims 1-17 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

Drawings

Applicants acknowledge that the Office has accepted for examination the formal drawings as filed with the present application.

Rejection of Claims Under 35 U.S.C. §101

The Examiner has rejected claims 1-17 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Applicants respectfully traverse the Examiner's rejection.

Pursuant to M.P.E.P. § 2107.02:

> To properly reject a claimed invention under 35 U.S.C. 101, the Office must (A) make a prima facie showing that the claimed invention lacks utility, and (B) provide a sufficient evidentiary basis for factual assumptions relied upon in establishing the prima facie showing.... If the Office cannot develop a proper prima facie case and provide evidentiary support for a rejection under 35 U.S.C. 101, a rejection on this ground should not be imposed. See, e.g., In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992) ("[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a prima facie case of unpatentability. If that burden is met, the burden of coming forward with evidence or argument shifts to the applicant.... If examination at the initial stage does not produce a prima facie case of unpatentability, then without more the applicant is entitled to grant of the patent."). See also Fregeau v. Mossinghoff, 776 F.2d 1034, 227 USPQ 848 (Fed. Cir. 1985) (applying prima facie case law to 35 U.S.C. 101); In re Piasecki, 745 F.2d 1468, 223 USPQ 785 (Fed. Cir. 1984).

> The prima facie showing must be set forth in a well-reasoned statement. Any rejection based on lack of utility should include a detailed explanation why the claimed invention has no specific and substantial credible utility. Whenever possible, the examiner should provide documentary evidence regardless of publication date (e.g., scientific or technical journals, excerpts from treatises or books, or U.S. or foreign patents) to support the factual basis for the prima facie showing of no specific and substantial credible utility. If documentary evidence is not available, the examiner should specifically explain the scientific basis for his or her factual conclusions.

Applicants respectfully submit that the Examiner has failed to establish a *prima facie* showing that the claimed invention lacks utility. Despite the fact that the Examiner concedes the pending claims satisfy the requirement that the claimed invention produces a "useful, concrete and tangible result" (see Office Action, page 2), the Examiner cites to Ex parte Bowman, 61 U.S.P.Q.2d 1669 (BPAI 2001), to support the rejection of the claim as failing to fall within the technological arts. However, Bowman is not applicable in the present case because in Bowman, the Board found that the Applicant in that case had failed to recite the use of a computer in either the specification or the claims. Indeed, the Board found that:

> Appellant has carefully avoided tying the disclosed and claimed invention to any technological art or environment. As noted by the examiner, the disclosed and claimed invention is directed to nothing more than a human making mental computations and manually plotting the results on a paper chart [answer, page 5]. The Examination Guidelines for Computer-Related Inventions are not dispositive of this case because there is absolutely no indication on this record that the invention is connected to a computer in any manner.

In contrast, Applicants in the present case have provided extensive description in the specification tying the claimed invention to technological arts. For example, in accordance with one embodiment, the specification states:

> The technical architecture 14 includes hardware according to a production hardware specification and a technical architecture design.

> The hardware supports the application architecture 12. The technical architecture 14 can include, for example, at least one server computer running an operating system upon which the application architecture can run. The technical architecture 14 can further include, for example, a web server in operational communication with the server computer and serving web pages that can be accessed by a plurality of client computers over a network, such as the Internet. The web pages serve as an online interface between the application architecture and users operating the client computers to use the applications described above. (Page 9, lines 16-24; emphasis added.)

In addition, claims 1 and 2 have been amended to expressly recite "computer-implemented" methods, thereby further clarifying the relationship of the claimed invention with the technological arts.

For at least the reasons provided above, Applicants respectfully request withdrawal of the Examiner's rejections under § 101 and allowance of claims 1-17.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 426882001200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: April 28, 2004

Respectfully submitted,

By _____

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